

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRYAN CLARK,

Plaintiff,

v.

WONG,

Defendant.

No. 2:23-CV-1439-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff's motion to modify the schedule for this case. See ECF No. 21. Defendant has filed an opposition. See ECF No. 22. Plaintiff has filed a reply. See ECF No. 23.

On December 5, 2023, the Court issued a scheduling order permitting the parties to conduct discovery through August 1, 2024. See ECF No. 19, pg. 3. More specifically, the Court provided as follows at paragraph 6:

The parties may conduct discovery until August 1, 2024. All requests for discovery pursuant to Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45 shall be served not later than sixty days prior to this date. Any motions necessary to compel discovery shall be filed by this date.

ECF No. 19, pg. 3.

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1           In the pending motion, Plaintiff states: "I was in ad-seg [administrative  
2 segregation] for 6 months which prevented me from getting help from my peers." ECF No. 21,  
3 pg. 1. Plaintiff adds that he suffers debilitating pain and vision problems which necessitate  
4 assistance from others in preparing his paperwork. See id. at 1. Plaintiff states that he has  
5 already served interrogatories and requests for admissions, and that he will be serving requests for  
6 production of documents shortly. See id. Plaintiff asks that the discovery cut-off deadline be  
7 extended to November 1, 2024. See id.

8           In opposition, Defendant contends that Plaintiff's motion should be denied because  
9 he was not diligent in seeking discovery prior to expiration of the deadlines established in the  
10 December 5, 2023, scheduling order. See ECF No. 22. According to Defendant, Plaintiff served  
11 interrogatories on June 6, 2024, and served requests for admissions on July 8, 2024, and that both  
12 these dates are less than 60 days before August 1, 2024. See id. at 2. Defendant states that, as a  
13 courtesy and despite the discovery requests being late, responses to Plaintiff's interrogatories have  
14 been served. See id. Defendant also states that, as of the date of filing his opposition to Plaintiff's  
15 motion to modify the schedule (July 18, 2024), he has not received any requests for production of  
16 documents from Plaintiff. See id.

17           Defendant argues that these discovery requests were late in that they were not  
18 served at least 60 days prior to the August 1, 2024, discovery cut-off date, as required by the  
19 December 5, 2023, scheduling order. See id. Defendant further asserts that Plaintiff's motion to  
20 modify the schedule should be denied because it was not filed until July 12 – just two weeks prior  
21 to the close of discovery. See id.

22           While Defendant's objection based on the timing of Plaintiff's discovery requests is  
23 well-taken, given Plaintiff's pro se status and incarceration, as well as his six-month placement in  
24 administrative segregation during the period of time when discovery was open pursuant to the  
25 December 5, 2023, order, the Court is willing to provide Plaintiff with additional time to conduct  
26 discovery. The Court will direct that Defendant respond to any outstanding discovery requests.  
27 The Court will also set a deadline for service of any new discovery requests, as well as new dates  
28 for completion of discovery and filing of dispositive motions.

1 Accordingly, IT IS HEREBY ORDERED as follows:

2 1. Plaintiff's motion to modify the schedule for this case, ECF No. 21, is  
3 GRANTED.

4 2. The parties may conduct discovery through November 1, 2024, with any  
5 motions to compel to be filed by this date.

6 3. Any new discovery requests shall be served on or before September 2,  
7 2024.

8 4. Any new discovery requests which are not served on or before September  
9 2, 2024, will be considered untimely and the opposing party is not required to respond to such  
10 discovery.

11 5. On or before August 27, 2024, the parties shall serve responses to any  
12 discovery requests which are outstanding as of the date of this order, such responses to be deemed  
13 timely if served by this date.

14 6. Dispositive motions shall be filed on or before March 3, 2025.

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16 Dated: August 6, 2024



17 DENNIS M. COTA  
18 UNITED STATES MAGISTRATE JUDGE  
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